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10-10-2019

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FILED WITH LRC TIME: 4 pm
OCT 10 2019
Emily B Caudill REGULATIONS COMPILER

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 31:080. Coupons or redemption certificates.

5 RELATES TO: KRS 139.010, 139.200

6 STATUTORY AUTHORITY: KRS 131.130

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the
8 Department of Revenue to promulgate administrative regulations for the administration and
9 enforcement of Kentucky tax laws. This administrative regulation interprets [To interpret] the
10 sales and use tax law as it applies to coupons and redemption certificates.

11 Section 1. Definitions. (1) "Cash discounts" means the exchange value of coupons or
12 redemption certificates issued by the retailer, not a wholesaler or other third party, and are taken
13 by the retailer from customers.

14 (2) "Coupon" and "redemption certificate" [Definition. As used in this administrative
15 regulation, a coupon or redemption certificate (excluding premium or trading stamps)] means a
16 certificate [in writing] vesting in a customer, upon the purchase of certain tangible personal
17 property, digital property, or services included in KRS 139.200, the right to a reduction in the
18 sales price of the property or service.

19 Section 2. A retailer shall include within their [his] gross receipts the exchange value of
20 coupons or redemption certificates taken from their [his] customers if the retailer redeems such
21 certificates from their [his] wholesaler or other third party. [person.] The exchange value shall be

1 included in gross receipts under either of the following methods:

2 (1) The retailer may include the exchange value in their ~~[his-]~~ gross receipts for the period
3 during which the coupons or redemption certificates were taken from their ~~[his-]~~ customers; or

4 (2) The retailer may include the exchange value in his gross receipts for the period during
5 which the coupons or redemption certificates are redeemed from his wholesaler or other third
6 party. ~~[person-]~~

7 (3) In either event, the retailer shall collect from customers the tax applicable to the coupon
8 or redemption certificate exchange value.

9 Section 3. Cash discounts shall ~~[The exchange value of coupons or redemption certificates~~
10 ~~issued by the retailer (and not by his wholesaler or other person) and which are taken by the~~
11 ~~retailer from his customers are "cash discounts" and will-]~~ not be included in the retailer's gross
12 receipts. The retailer shall not collect tax from customers on the exchange value of such coupons
13 or redemption certificates.

14 Section 4. Coupons or redemption certificates that ~~[which-]~~ represent combinations of those
15 described in Sections 2 and 3 of this administrative regulation shall be taxable on that portion of
16 the coupon or redemption certificate value that ~~[which-]~~ may be redeemed from the retailer's
17 wholesaler or other third party. ~~[person-]~~ The ["]cash discount["] portion of such coupons or
18 redemption certificates shall not be ~~[is not-]~~ subject to tax.

103 KAR 31:080

APPROVED BY AGENCY:

Daniel Bork
DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

Oct 10, 2019
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on December 27, 2019, at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 31.080

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526
Email: Lisa.Swiger@ky.gov

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation interprets the sales and use tax law as it applies to coupons and redemption certificates.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to provide up to date guidance on the tax treatment of coupons and redemption certificates.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with the formatting requirements of KRS 13A and updates to KRS 139.200.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to clarify information currently contained in the regulation.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: The amendment will change this existing administrative regulation by updating statutory references within the "RELATES TO" section and body of the regulation, updating the authorizing statement in the "NECESSITY, FUNCTION, AND CONFORMITY" section, adding definitions for cash discount, coupon and redemption certificate, adding digital property and services included in KRS 139.200 per statute, removing sex-based language, and updating language within the body of the regulation.
 - (b) The necessity of the amendment to this administrative regulation: The amendment is necessary to provide updated and accurate information regarding guidance on the sales and use tax law as it applies to the coupons and redemption certificates.
 - (c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).
 - (d) How the amendment will assist in the effective administration of the statutes: See (1)(d).
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All sellers and purchasers of tangible personal property, digital property, and services included in KRS 139.200.
- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
 - (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional actions are necessary to comply with the amendment.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in

question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no expected cost to implement the proposed amendment. Current staff and budgeted funding will absorb the implementation of this administrative regulation.

(b) On a continuing basis: There is no cost expected on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental staff and funding will be used to implement and enforce this proposed amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applicable as the proposed amended regulation will be applied equally to all entities impacted by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 31.080

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526
Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130(1).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenues are expected to be generated by updating this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: